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HOUSE COMMITTEE ON
TRANSPORTATION
AND INFRASTRUCTURE

SMALL BUSINESS COMMITTEE

CHAIRWOMAN, SUBCOMMITTEE ON RURAL
DEVELOPMENT, AGRICULTURE, TRADE AND
ENTREPRENEURSHIP

Congress of the United States
House of Representatives
Washington, DC 20515-1501

October 29, 2019

Chairman Paul Tonko
Subcommittee on Environment & Climate Change
House Committee on Energy & Commerce
2368 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Tonko,

Thank you for holding a hearing to examine the Renewable Fuel Standard (RFS) small refinery exemption program, as well as the Environmental Protection Agency's (EPA) proposed supplemental rule for renewable fuel volumes issued on October 15, 2019.

Since coming to Congress, protecting the RFS has been a top priority and I have made it a point to call for much-needed transparency in the small refinery exemption program. On August 21, 2019, 11 members from both sides of the aisle joined me in urging the Government Accountability Office to investigate the review and approval of these waivers under the RFS. Given the Subcommittee's interest in the issue, I wish to share a copy of letter.

Once again, I thank the Subcommittee for its efforts and stand ready to work with you to uphold the RFS.

Sincerely,



Abby Finkenauer
Member of Congress

CC:

Chairman Frank Pallone
House Committee on Energy & Commerce
2107 Rayburn House Office Building

Washington, D.C. 20515

Ranking Member Greg Walden
House Committee on Energy & Commerce
2185 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member John Shimkus
Subcommittee on Environment & Climate Change
House Committee on Energy & Commerce
2217 House Office Building
Washington, D.C. 20515

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Congress of the United States
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August 21, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Comptroller General Dodaro:

We write to request that the U.S. Government Accountability Office (GAO) examine the review and approval of small refinery exemption waivers under the Renewable Fuel Standard (RFS), including the Department of Energy's (DOE) viability scores for the 40 small refinery waivers reviewed by the DOE for the 2018 compliance year.

Our concerns stem from the economic consequences to our rural communities created by exempting nearly 4 billion gallons of fuel from the RFS, a standard intended to expand the nation's renewable fuels sector. By 2016, the ethanol industry has grown to support over 339,000 U.S. jobs and driven \$41 billion in economic activity by supporting corn and soy markets and reducing gasoline prices.

The RFS allows the Environmental Protection Agency (EPA) to provide waivers to small refineries which demonstrate that compliance with the RFS would create significant economic hardship for their facility. Approval of exemptions to the RFS for small refiners has grown exponentially since 2016. Between 2013 and 2015, the EPA granted no more than 8 waivers for any given year. The EPA retroactively approved 19 waivers for 2016, then proceeded to grant 35 waivers in 2017, which is equal to removing a total of 1.82 billion gallons of renewable fuel in 2017 alone. With the recent approval of 31 waivers for 2018, it is imperative that we fully understand how EPA is reaching these conclusions despite DOE's viability analysis.

Recent litigation in the D.C. Circuit has revealed that the DOE had given a viability score of zero to at least half of the 48 applications for small refinery exemptions to EPA for compliance years 2016 and 2017, meaning that the DOE had no concerns about the refiner's financial viability. In a letter dated July 19, 2019 to Senator Grassley, DOE Secretary Perry admitted that the EPA granted at least one waiver in conflict with his agency's recommendation. This raises questions about the review process and what other factors the EPA is considering in approving the waivers. A comprehensive review is needed to ensure appropriate oversight going forward as well as ensuring the transparency of the EPA's process.

In your investigation, we ask that you consider the following:

1. Of the small refinery exemption waiver applications submitted for the 2018 compliance year and reviewed by the DOE, what was the viability score of each application?
2. Has DOE changed the criteria, the interpretation of the criteria, the methodology, or any other significant aspect of how it makes its recommendations to EPA for small refinery exemptions?
3. Other than the viability score provided by the DOE, what other factors are being considered by the EPA in awarding small refinery exemption waivers? How has this changed since the previous Administration?
4. Since the development of DOE's methodology in 2011, what percentage of applications that received a disqualifying viability score from the DOE were ultimately granted?
5. How many times has the DOE ever recommended a partial waiver for a refinery? Has the EPA ever granted a partial waiver?
6. Does the DOE or EPA consider the economic viability of the parent refiner company when considering an application from an individual refinery?
7. Does the DOE take RIN values into account when assessing the petitions for relief?

Thank you for your timely attention to this matter. We are happy to discuss the scope of this investigation further. If you have any questions, please contact Steffanie Bezruki with Congresswoman Finkenauer at Steffanie.Bezruki@mail.house.gov or (202) 225-2911.

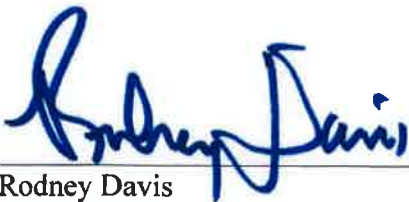
Sincerely,



Abby Finkenauer
Member of Congress



Collin Peterson
Member of Congress



Rodney Davis
Member of Congress



Roger Marshall
Member of Congress



Dave Loebsack
Member of Congress



Cheri Bustos
Member of Congress



Mike Bost
Member of Congress



Cindy Axne
Member of Congress



Don Bacon
Member of Congress



Dusty Johnson
Member of Congress



Adam Kinzinger
Member of Congress



Darin LaHood
Member of Congress